

Remarks

The Office action mailed March 28, 2008, has been reviewed and carefully considered. The allowance of re-numbered claim 38 (previously numbered claim 36) on page 8 of the Office action is gratefully acknowledged. Claim 3 has been canceled. Claims 1, 32, and 37-40 have been amended. New claims 41-43 have been added. Entry of these amendments is respectfully requested.

35 U.S.C. §112, Second Paragraph, Rejections

It is respectfully submitted that the present amendments have obviated these rejections.

35 U.S.C. §112, First Paragraph, Rejections

Claims 1-17 and 32-38 have been rejected under 35 U.S.C. §112, first paragraph, for allegedly failing to comply with the written description requirement (except for the compound of re-numbered claim 38). Claim 1 is directed to compounds of generic formula A. With respect to generic chemical structures, MPEP §2163(II)(A)(3)(a), p. 2100-179 (Rev. 6, Sept. 2007) instructs that:

“[i]n claims involving chemical materials, generic formulae usually indicate with specificity what the generic claims encompass. One skilled in the art can distinguish such a formula from others and can identify many of the species that the claims encompass. Accordingly, such a formula is normally an adequate description of the claimed genus.” (citing *Regents of the University of California v. Eli Lilly*, 119 F.3d 1559, 1568, 43 USPQ2d 1398, 1406 (Fed. Cir. 1997))

With this legal context in mind, the structure of compounds falling within generic formula A is readily apparent for purposes of the written description requirement. The possible structures for R^1 , R^2 and L, the only variants in the formula, are clear.

Moreover, the application identifies the structure of species and sub-genus of formula A. For example, page 13, lines 21-23, teach that “[i]n the compounds of formula A, R^2 (along with the $-C(O)O-$ group) may be an acyl group derived from an organic fatty acid. Such acyl groups include palmitoyl, lauroyl, stearoyl, myristoyl, oleyl and linoleyl.” Several of the dependent

claims reflect the more specific structures disclosed in the application. New claim 41 specifies that R^1 is an azido, and R^2 is a saturated or unsaturated carbon chain containing 11, 13, 15 or 17 carbon atoms, and L is O. Claim 2 specifies that R^1 is selected from azido, amino or hydrazide; R^2 is a saturated or unsaturated carbon chain containing 5 to 20 carbon atoms; and L is O. Written description analysis, of course, is performed on a claim-by-claim basis.

The application also provides sufficient guidance on how to synthesize compounds of formula A. Page 14, lines 2-10 describe a general synthetic approach for making compounds of formula A (this approach is also recited in original claim 11). Example 15 on pages 41-43 of the application provides a specific example of the synthesis of an illustrative compound. With respect to conjugates as recited in claims 5-10 and 39, the application on page 17, line 16 – page 18, line 4, details how the compounds can be conjugated to a carrier. In addition, the application notes that antibodies were raised against the compound of Example 15 (page 43, lines 3-5). The examiner has not explained why this teaching in the application would not reasonably convey to a person of ordinary skill in the art that the applicants had “possession” of the compounds of formula A or the conjugates made from the compounds of formula A.

Restriction/Election of Species Requirement

The Office action clarifies that the species election must be for any exemplified compound. Applicants note that the election of species requirement mailed only referred to “[t]he species when L can be O, N, S, P or alkylene.” In any event, applicants elect the compound shown in claim 38 above.


It is respectfully submitted that the application is in condition for allowance. Should there be any questions regarding this application, examiner Qazi is invited to contact the undersigned attorney at the telephone number shown below.

Respectfully submitted,

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